

Gregory D. Miller
Timothy P. Gonzalez
RIVKIN RADLER LLP
25 Main Street
Court Plaza North, Suite 501
Hackensack, NJ 07601-7082
Telephone: 201-287-2460
Facsimile: 201-489-0495
Gregory.Miller@rivkin.com
Timothy.Gonzalez@rivkin.com

Erik Swenson (to be admitted *pro hac vice*)
**CARLSON, CASPERS, VANDENBURGH
& LINDQUIST, PA**
Capella Tower, Suite 4200
225 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: (612) 436-9600
Facsimile: (612) 436-9605
eswenson@carlsoncaspers.com

*Attorneys for Plaintiffs Graco Inc.
and Graco Minnesota Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GRACO INC. and)	
GRACO MINNESOTA INC.,)	
)	
<i>Plaintiffs,</i>)	
)	Civil Action No. _____
v.)	JURY DEMAND
)	
DEVCO CORPORATION,)	
)	
<i>Defendant.</i>)	

COMPLAINT

Plaintiffs, Graco Inc. and Graco Minnesota Inc. (collectively “Graco”), by and through their undersigned attorney, bring this Complaint against Defendant, Devco Corporation (“Devco”).

NATURE OF ACTION

1. Graco brings this action against Defendant seeking an injunction, damages, and other equitable relief for Defendant’s willful trademark infringement, false advertising, and unfair competition. This action arises under the Lanham Act, 15 U.S.C. § 1051 *et seq.*

2. As a direct and proximate result of Defendant’s willful infringement of Graco’s trademarks, Graco has suffered irreparable harm and will continue to suffer irreparable harm unless and until Defendant is enjoined from further infringement by this Court.

PARTIES

3. Graco Inc. is a corporation organized under the laws of the State of Minnesota with a place of business at 88 11th Ave. NE, Minneapolis, Minnesota 55413.

4. Graco Minnesota Inc. is a corporation organized under the laws of the State of Minnesota with a place of business at 88 11th Ave. NE, Minneapolis, Minnesota 55413. Graco Minnesota Inc. is a wholly owned subsidiary of Graco Inc.

5. Graco is an innovator and worldwide leader in fluid-handling systems and components. These products move, measure, control, dispense, and spray various fluid and powder materials and are used across a variety of industries. Graco sells its equipment in this district and throughout the United States.

6. Upon information and belief, Defendant Devco is a New Jersey corporation with its principal place of business located at 131 Morristown Rd, Bldg. B, Basking Ridge, NJ 07920.

7. Upon information and belief, Defendant sells the products at issue in this case throughout the United States, including in this judicial district.

8. Upon further information and belief, Defendant sells and offers to sell products at issue in this case through at least two fully interactive websites, maintained at <https://www.devcocorp.com/> and <https://www.trabonlubrication.com/>, to customers in this judicial district and throughout the United States.

9. Upon further information and belief, Defendant is the operator of the websites <https://www.devcocorp.com/> and <https://www.trabonlubrication.com/>.

JURISDICTION AND VENUE

10. This action arises under the Lanham Act, 15 U.S.C. § 1051, *et seq.* Accordingly, this Court has subject matter jurisdiction under 15 U.S.C. § 1121.

11. This Court has personal jurisdiction over Defendant because, among other reasons, Defendant regularly conducts business in this judicial district, has purposefully directed infringing acts to this district, has its principal place of business in this district, is incorporated in this district and/or has otherwise availed itself of the privileges and protections of the laws of the State of New Jersey, such that this Court's assertion of jurisdiction over Defendant does not offend traditional notions of fair play and due process.

12. Among other things, Defendant has advertised, offered to sell, and sold products that infringe the Asserted Trademarks within the District of New Jersey. On information and belief, Defendant maintains at least two websites at <https://www.devcocorp.com/> and <https://www.trabonlubrication.com/>, on which Defendant has advertised, offered to sell, and sold infringing products.

13. Venue is proper in this district under the provisions of 28 U.S.C. §§ 1391(b) and (c) because, among other reasons, Defendant's infringing acts that give rise to the claims have occurred in this judicial district and have been directed to citizens of this judicial district. Venue in this district is also proper because Defendant is incorporated in this district and maintains principal offices in this district.


GRACO AND ITS INTELLECTUAL PROPERTY

14. Graco is an internationally recognized leader in the design and manufacture of fluid-handling systems, components and lubrication products and sells its high-quality products under numerous patents and federally registered trademarks, including the Asserted Trademarks, which are described below.

15. Since at least as early as 1926, and long before the acts of Defendant alleged herein, Graco has continuously and prominently used the federally registered GRACO trademark and other

trademarks in connection with fluid-handling equipment and similar goods to denote the source of its high-quality products and services.

16. Graco is the owner of numerous federally registered trademarks on the USPTO's Principal Register covering Graco's fluid-handling products, including at least the following ("the Asserted Trademarks" or "the Graco Trademarks"), which have been in continuous use in interstate commerce by Graco since at least as early as each respective trademark's registration date:

Mark	Registration No.	Registration Date	Goods/Services
Graco	844517	Feb. 20, 1968	DISPENSING SYSTEMS FOR LUBRICANTS AND VARIOUS OTHER FLUIDS AND PARTS AND ACCESSORIES THEREOF; PRESSURIZED FLUID SPRAYING SYSTEMS FOR SPRAYING PAINTS, MASTIC MATERIALS AND CLEANING SOLUTIONS AND PARTS AND ACCESSORIES THEREOF; FLUID PUMPING SYSTEMS AND PARTS AND ACCESSORIES THEREOF; SERVICE REEL ASSEMBLIES FOR LUBRICANTS AND VARIOUS OTHER FLUIDS; AIR POWERED PUMPS; AIR COMPRESSORS; AGITATOR UNITS FOR MIXING FLUIDS; AND SPRAY GUNS AND PARTS THEREOF
	844518	Feb. 20, 1968	DISPENSING SYSTEMS FOR LUBRICANTS AND VARIOUS OTHER FLUIDS AND PARTS AND ACCESSORIES THEREOF; PRESSURIZED FLUID SPRAYING SYSTEMS FOR SPRAYING PAINTS, MASTIC MATERIALS AND CLEANING SOLUTIONS AND PARTS AND ACCESSORIES THEREOF; FLUID PUMPING SYSTEMS AND PARTS AND ACCESSORIES THEREOF; SERVICE REEL ASSEMBLIES FOR LUBRICANTS AND VARIOUS OTHER FLUIDS; AIR POWERED PUMPS; AIR COMPRESSORS; AGITATOR UNITS FOR MIXING FLUIDS; AND SPRAY GUNS AND PARTS THEREOF
Fast-Ball	1582262	Feb. 13, 1990	LUBRICATION TRANSFER PUMPS

Fire-Ball	1216403	Nov. 16, 1982	HIGH PRESSURE FLUID PUMPS FOR AIRLESS UNDERCOATING SPRAY UNITS AND AUTOMOTIVE LUBRICATING EQUIPMENT
Dyna-Star	1578665	Jan. 23, 1990	HYDRAULICALLY POWERED LUBRICATION PUMPS
EZ Greaser	6423559	Jul. 20, 2021	LAND VEHICLE PARTS, NAMELY, SERIES DIVIDER VALVE LUBRICANT DISPENSERS FOR TRUCKS, TRACTORS, AND TRAILERS
Grease Jockey	1420811	Dec. 16, 1986	CENTRALIZED AUTOMATIC LUBRICATING SYSTEM FOR MOTOR VEHICLES, COMPRISED PRIMARILY OF A TIMER, SOLENOID VALVE, PUMP, METER, AND A VACUUM-OPERATED COMPRESSOR
Apex	3300137	Sep. 25, 2007	ELECTRIC PUMPS FOR TRANSFERRING OIL AND HYDRAULIC FLUID
Matrix	3086041	Apr. 25, 2006	SYSTEM FOR METERING AND DISPENSING LUBRICANTS AND RELATED FLUIDS PRIMARILY FOR VEHICLE MAINTENANCE AND COMPRISING TANK LEVEL MONITORS, SOFTWARE, TRANSCEIVERS AND REPEATERS
<i>Trabon</i>	557519	Apr. 15, 1952	LUBRICATING SYSTEMS CONSISTING OF PUMPS, REVERSING VALVES, COUPLERS, HOSE, FEEDERS AND/OR DISTRIBUTORS, DIVIDERS, INDICATORS, SWIVELS, ALL COMPONENT PARTS THEREOF SOLD AS A UNIT
Modu-Flo	3771545	Apr. 6, 2010	AUTOMATIC LUBRICATION APPARATUS COMPOSED OF PUMPS, RESERVOIRS AND DISTRIBUTION VALVES SOLD AS A UNIT AND PARTS THEREOF
Thrif-T-Luber	2318642	Feb. 15, 2000	LOW PRESSURE CENTRALIZED LUBRICATORS FOR MACHINE TOOLS
Injecto-Flo	2392710	Oct. 10, 2000	MACHINE PARTS, NAMELY, MANUAL, MECHANICAL, PNEUMATIC AND HYDRAULIC LUBRICANT PUMPS, LUBRICANT FEEDERS AND PNEUMATIC AND HYDRAULIC IMPULSE COUNTERS

			FOR USE IN CENTRALIZED LUBRICATION SYSTEMS
--	--	--	---

17. The current status and information maintained by the USPTO for each of these registered trademarks are attached hereto as Exhibits A-M.

18. The Graco Trademarks are valid and subsisting in full force and effect, many of which have become incontestable in accordance with 15 U.S.C. §§ 1065 and 1115(b), and constitute conclusive evidence of Graco's exclusive right to use the marks throughout the United States with respect to, *inter alia*, fluid handling systems and components.

DEFENDANT AND ITS UNLAWFUL ACTIVITIES

19. Upon information and belief, Defendant is in the business of selling knock-off Graco products and has sought to willfully infringe upon Graco's intellectual property rights through its sale of competing and infringing fluid handling systems and components.

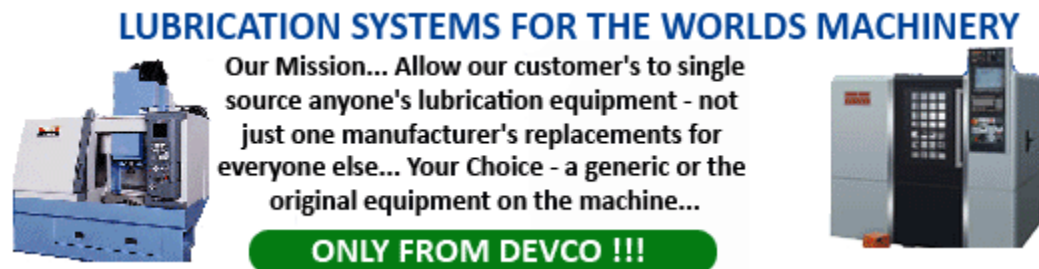
20. Upon information and belief, Defendant has registered, maintained, and is responsible for the domain name and corresponding web pages at <https://www.devcocorp.com/> and <https://www.trabonlubrication.com/>. These websites are used to advertise, offer for sale, sell, and distribute infringing products.

21. Defendant's websites have expressly targeted foreseeable purchasers of Graco's products in the State of New Jersey and elsewhere.

22. Defendant's websites use the Graco Trademarks to advertise and describe Defendant's products without Graco's authorization.

23. Defendant is not an authorized Graco distributor and upon information and belief, Defendant does not sell "new" Graco products but rather sells knock-offs using the Graco Trademarks without authorization.

24. Defendant's <https://www.devcocorp.com/> website includes a homepage that displays the following description of its business, which identifies the "generic" and "original" products that it advertises, offers for sale, and sells:



25. Defendant's <https://www.devcocorp.com/> website also includes a "Graco" webpage for lubrication products that prominently displays Graco's logo mark. This webpage advertises certain categories of products, including "Air Operated Piston Pumps – Grease Pumps;" "Air Operated Piston Pumps – Oil Pumps;" "Automatic Lubrication Equipment – Mobile Off-Road;" "Automatic Lubrication Equipment – Mobile On-Road;" "Electric Fuel & Oil Transfer Pumps; Fluid Meters and Valves;" "Hose Reels;" "Filter Systems; Electronic Fluid Management Systems;" "Wireless Fluid Management Systems;" and "Used Fluid Handling Packages." Defendant's "Graco" webpage is depicted below:

(t) 800-323-3826 | (f) 908-630-0005 | sales@devco-corp.comE-mail - sales@devco-corp.com

graco is registered trademark of graco inc.

**LUBRICATION****Air-Operated Piston Pumps - Grease Pumps**

Fire-Ball 300 (15:1)

Fire-Ball 425 (50:1)

Mini Fire-Ball 225 (50:1)



Fire-Ball 300 (50:1)

Fire-Ball 425 (75:1)

Check-Mate Grease Supply Systems

Air-Operated Piston Pumps - Oil Pumps

Fast-Ball (1:1)

Fast-Ball 425 (10:1)

Fast-Ball 425 (6:1)

Duro-Flo and High-Flo Oil Supply Systems



Fast-Ball 300 (5:1)

Fast-Ball 425 (3:1)

Mini Fire-Ball (3:1)

Automatic Lubrication Equipment - Mobile Off-RoadDyna-Star (10:1) High Ratio Hydraulically
Powered Lubrication Pumps

Tri-Lube HD Electric Grease Pump



Injectors and Pumps

Automatic Lubrication Equipment - Mobile On-Road

MLX Lubrication Systems

EZ Greaser Lubrication Systems















Grease Jockey Lubrication Systems

Trailer Lubrication Systems






Electric Fuel & Oil Transfer Pumps

   	Apex Electric Dispensing and Transfer Pumps	  	Blue Devil Fuel Transfer Pumps
	Dispensing Pumps		Fuel Transfer Pumps
	Hurricane Electric Pumping Systems		Oil Transfer Pumps
	Piston Hand Pumps		



Fluid Meters and Valves

     	Accu-Shot Grease Meter with Digital Readout	     	EM12 Electronic Oil Meter
	EM6 Electronic Oil Meter		IM5 In-line Electronic Oil Meter
	IM6 In-line Electronic Oil Meter		LD Series
	Standard Oil Meter (16 Quart)		PMS Preset Oil Meter
	Pro-Shot Grease Meter		SD Series
	V12 Non-Metered Valve		V5 Non-Metered Valve

Hose Reels

  	250 Series Hose Reels	 	350 Series Hose Reels
	500 Series Hose Reels		700 Series Hose Reels
	750 Series Hose Reels		

Filter Systems

	Cleanline 900 (For Use with Fire-Ball 300 5:1 or lower ratio oil pumps)		Cleanline 1800 (For Use with Fire-Ball 425 10:1 or lower ratio oil pumps)
---	--	---	--

Electronic Fluid Management Systems

	Fluid Commander		Matrix
---	-----------------	---	--------

Wireless Fluid Management Systems

Used Fluid Handling Packages

 	Coolant King 25 Gallon (95 Liter) Used Anti-Freeze Receiver		Oil Ace
	Oil King 25 Gallon (95 Liter) Used Oil Receiver		

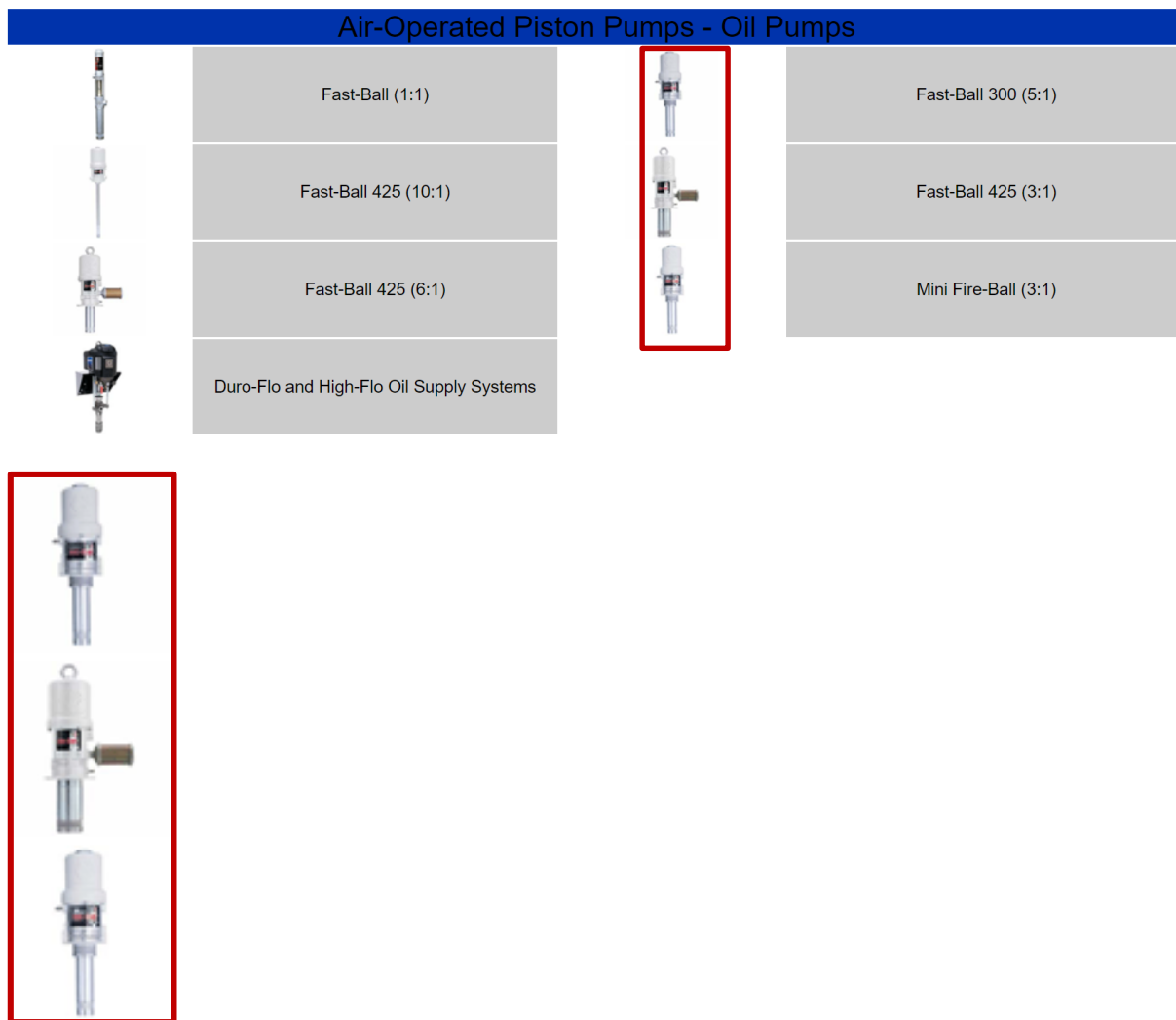
DEVCO CORPORATION
131 MORRISTOWN ROAD, BLDG B
BAKING RIDGE, NEW JERSEY 07520 USA
Toll Free: 1-800-323-3826
Fax: (908) 630-0045

For Calls Outside the USA: (908) 630-0005
E-mail - sales@devco-corp.com

26. On information and belief, the products offered for sale on this webpage are not products manufactured and sold by Graco.

27. Defendant's <https://www.devcocorp.com/> website prominently features Graco's trademarks next to images and descriptions of Defendant's products, including its federally registered house mark and logo mark, as well as Graco's FAST-BALL, FIRE-BALL, DYNA-STAR, EZ GREASER, GREASE JOCKEY, APEX, and MATRIX marks. The webpage does not indicate whether the products offered for sale are genuine Graco products or otherwise.

28. For example, Defendant's <https://www.devcocorp.com/> website depicts the following products in the "Air-Operated Piston Pumps – Oil Pumps" portion of its "Graco" webpage:



These images show products with black and red labels. In contrast, Graco's products display a blue label bearing its logo:¹



MINI FIRE-BALL 225

Mini Fire-Ball® 225 3:1 Universal Pump

Part Number: 248230

★★★★★ (0) [Write a review](#) [Ask a question](#)

You can't afford down time, especially when your shop is small and your work force depends on equipment performance. The Mini Fire-Ball 225 is an engineered design with fewer moving parts, which means less wear out, and reduced downtime and more profit for your business.

WHERE TO BUY

CONTACT US

29. Other images on Defendant's "Graco" webpage appear to be taken directly from Graco's own website. For example, Defendant advertises the following products as "Automatic Lubrication Equipment – Mobile Off-Road:"

Automatic Lubrication Equipment - Mobile Off-Road	
	Dyna-Star (10:1) High Ratio Hydraulically Powered Lubrication Pumps
	Tri-Lube HD Electric Grease Pump
	Injectors and Pumps
	Dyna-Star (10:1) High Ratio Hydraulically Powered Lubrication Pumps

Graco's own website contains a page for this product depicting an apparently identical image:²

¹ See, e.g., <https://www.graco.com/us/en/vehicle-service/product/248230-mini-fire-ball-225.html>.

² See <https://www.graco.com/us/en/vehicle-service/product/2008088-dyna-star.html>.



DYNA-STAR

Hydraulic Dyna-Star® 10:1 High Ratio Lubrication Pump - 60 lb (27 kg).

Part Number: 2008088

★★★★★ (0) [Write a review](#) [Ask a question](#)

Graco's 5:1 and 10:1, hydraulically-powered lubrication pumps designed for long life and reliable operation in demanding off-road mobile applications. Hydraulic Dyna-Star pumps provide reliable, quiet, ice-free performance at maximum pressure and low flow rates and are up to three times more energy...

[More Info](#)

WHERE TO BUY

CONTACT US

Questions About this Product?

If you're not finding the information you need, ask one of our experts.

[ASK AN EXPERT](#)

30. Defendant's <https://www.trabonlubrication.com/> website also prominently features Graco's trademarks next to images and descriptions of Defendant's products. A portion of the site's homepage appears below:



Customer Service & Sales
1-800-323-3826

DEVCOCORP.COM

TRABONLUBRICATION.COM



Trabon and Lubriquip Oil & Grease Pumps, Modu-Flo, Maxi-Flo, Lubemaster, Lubrisystem, MSP, MJ, MX, MGO, MD Feeders



sales@trabonlubrication.com

Trabon, Lubriquip & Graco are registered trademarks of Graco, Inc.

31. Defendant's <https://www.trabonlubrication.com/> website homepage advertises

"Lubricators, Divider Valves, and Controllers," including the following products:



Modu-Flo Pump
Oil & Grease
(Pneumatic / Hydraulic)



Thrif-T-Luber (Electric) Pump



Grease Jockey Pump



Injecto-Flo Pump



32. On information and belief, the products offered for sale on this webpage are not products manufactured and sold by Graco. Nevertheless, Defendant's <https://www.trabonlubrication.com/> webpage prominently features Graco's federally registered trademarks, including its TRABON, MODU-FLO, THRIF-T-LUBER, GREASE JOCKEY, INJECTO-FLO, and FIRE-BALL marks. Further, Defendant is using Graco's TRABON mark in its domain name. The webpage does not indicate whether the products offered for sale are genuine Graco products or otherwise.

33. The use of Plaintiff's registered trademarks is likely to cause consumer confusion or mistake as to the source of the products offered for sale on Defendant's websites, and/or inaccurately suggest an affiliation, connection, or association of Defendant with Graco.

34. Defendant's actions complained of herein have been deliberate, willful, malicious and in bad faith, with the intent to mislead consumers and inflict injury on Graco.

35. Upon information and belief, Defendant is undertaking all of the above-referenced acts of infringement in the State of New Jersey and, more particularly, in this judicial district.

FIRST CLAIM FOR RELIEF
(Trademark Infringement, 15 U.S.C. §§ 1114 and 1125(a))

36. Graco restates and realleges each of the allegations set forth above.

37. Graco is the owner of the Graco Trademarks registered with the USPTO, which appear on the Principal Register as set forth in Exhibits A-M.

38. Since at least as early as their respective filing dates, Graco has used the Graco Trademarks in the United States in connection with the marketing and sale of a wide variety of fluid-handling and/or lubrication equipment.

39. During this time, the Graco Trademarks have acquired substantial goodwill and a secondary meaning in the mind of the consuming public as identifying goods manufactured and sold by Graco.

40. The Graco Trademarks are owned by Graco and are valid and subsisting in full force and effect.

41. Defendant willfully and knowingly used and continues to infringe upon the Graco Trademarks in interstate commerce for purposes of selling fluid handling systems and components bearing the Graco Trademarks in the United States, without Graco's consent.

42. Defendant is not authorized by Graco to use the Graco Trademarks in any manner.

43. Defendant's unauthorized use of the Graco Trademarks on its website and its sale of lubrication equipment using trademarks confusingly similar or identical to the registered trademarks exclusively licensed to Graco to identify Defendant's goods constitutes use in commerce that has caused or is likely to cause confusion, mistake, or deception of the public as to the source or origin of Defendant's goods.

44. These acts constitute federal trademark infringement of the Graco Trademarks in violation of 15 U.S.C. §§ 1114 and 1125(a).

45. Defendant's acts of trademark infringement were committed with the intent to cause confusion and mistake, and to deceive, and to trade on the goodwill of Graco.

46. As a result of Defendant's acts of trademark infringement in violation of 15 U.S.C. §§ 1114 and 1125(a), Graco has suffered damages (including past damages), including lost profits in an amount to be proven at trial, severe and irreparable harm to its trade reputation and goodwill, and has no adequate remedy at law.

47. Graco is entitled to recover its damages caused by Defendant's infringement of the Graco Trademarks and disgorge Defendant's profits from its willfully infringing sales and unjust enrichment.

48. Graco is entitled to injunctive relief under 15 U.S.C. § 1116 because it has no adequate remedy at law for Defendant's infringement and, unless Defendant is permanently enjoined, Graco will suffer irreparable harm.

49. Graco is entitled to enhanced damages and attorney's fees under 15 U.S.C. § 1117(a) because Defendant has willfully, intentionally, maliciously, and in bad faith infringed on the Graco Trademarks.

SECOND CLAIM FOR RELIEF
(Trademark Counterfeiting Under 15 U.S.C. §§ 1114 and 1116)

50. Graco restates and realleges each of the allegations set forth above.

51. Defendant's unauthorized use of the Graco Trademarks on Defendant's products that are not genuine Graco products constitutes use of counterfeit marks identical with, or substantially indistinguishable from the genuine Graco Trademarks that are registered on the Principal Register of the USPTO for use in connection with Graco's products.

52. Defendant's acts have caused and/or are likely to cause confusion, mistake, or deception as to source, origin, sponsorship, or approval of those goods offered for sale or sold by Graco.

53. Defendant's acts constitute use in commerce of reproductions, copies, or colorable imitations of the Graco Trademarks in connection with the advertising, offering for sale, and sale of goods or services, and constitute trademark counterfeiting of the Graco Trademarks in violation of 15 U.S.C. §§ 1114(1) and 1116(d).

54. As a result of Defendant's actions, Defendant has been unjustly enriched and Graco has suffered damages (including past damages), severe and irreparable harm to its trade reputation and goodwill, and has no adequate remedy at law.

THIRD CLAIM FOR RELIEF
(Unfair Competition and False Designation of Origin, 15 U.S.C. § 1125(a))

55. Graco restates and realleges each of the allegations set forth above.

56. Defendant has willfully and knowingly used, and continues to use, the Graco Trademarks in interstate commerce for the purposes of selling Defendant's products without Graco's consent.

57. The products Defendant advertises and sells bearing the Graco Trademarks are not authorized for sale by Graco.

58. The products Defendant advertises and sells bearing the Graco Trademarks do not abide by, and interfere with, Graco's quality controls and/or requirements, as those products are materially different from Graco's genuine products.

59. Defendant's unauthorized use of the Graco Trademarks in view of the manner in which the trademarks are used and displayed together on Defendant's website with Defendant's products, is likely to cause confusion, cause mistake, and/or deceive consumers because it suggests that the

products Defendant offers originate with Graco and/or are of the same quality as the products originating from Graco.

60. Defendant's unauthorized use of the Graco Trademarks is likely to cause confusion or mistake, and/or to deceive customers as to the origin of Defendant's goods because it suggests affiliation, connection or association of Defendant with Graco.

61. Defendant's unauthorized advertisement and sale of products bearing the Graco Trademarks are in violation of 15 U.S.C. § 1125(a) in that Defendant has used in connection with its products a false designation of origin, a false or misleading description and representation of fact which is likely to cause confusion, and to cause mistake, and to deceive as to the affiliation, connection or association of Defendant's products with Graco and as to origin, sponsorship, and approval of Defendant's products.

62. Defendant's unauthorized advertisement and sale of products bearing the Graco Trademarks were committed with the intent to cause confusion, mistake and to deceive the public.

63. As a proximate result of Defendant's actions, Graco has suffered and will continue to suffer damages to its business, goodwill, reputation, and profits in an amount to be proven at trial.

64. Graco is entitled to recover its damages, including past damages, caused by Defendant's unfair competition, and to disgorge Defendant's profits from its willful acts of unfair competition.

65. Graco is entitled to injunctive relief under 15 U.S.C. § 1116 because it has no adequate remedy at law for Defendant's unfair competition and, unless Defendant is permanently enjoined, Graco will suffer irreparable harm.

66. Graco is entitled to enhanced damages and attorney's fees under 15 U.S.C. § 1117(a) because Defendant's acts of unfair competition were made willfully, intentionally, maliciously, and in bad faith.

JURY DEMAND

67. A jury trial is demanded on all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Graco respectfully requests that the Court award the following relief:

- a. A judgment in favor of Graco that Defendant has infringed the Graco Trademarks;
- b. Issuing temporary, preliminary, and permanent injunctions barring Defendant and all other actors acting in concert with it from infringing the Graco Trademarks, and/or engaging in any other act likely to confuse, mislead or deceive others into believing that Defendant, or its products, are connected with or sponsored, licensed, or approved by Graco, and/or engaging in any other act constituting unfair competition with Graco, or constituting an infringement or misappropriation of Graco's exclusive rights;
- c. A judgment that Defendant has willfully infringed the Graco Trademarks;
- d. A judgment and order requiring that Defendant shall account for and pay Graco the damages, including past damages, to which Graco is entitled as a consequence of Defendant's infringement of each of the Graco Trademarks;
- e. A judgment and order requiring that Defendant shall additionally account for and pay Graco the damages (including past damages) and or disgorge profits for the period of infringement of each of the Graco Trademarks following the period of damages established by Graco at trial;
- f. A judgment and order that Graco is further entitled to pre-judgment and post-judgment interest;
- g. A judgment and order finding that this case is exceptional and that Graco is entitled to its reasonable attorney fees, costs, and expenses that it incurs prosecuting this action under 15 U.S.C. § 1117; and

h. Any and all other award or relief that the Court deems just and equitable.

Dated: December 18, 2024

Respectfully submitted,

s/ Gregory D. Miller

Gregory D. Miller

Timothy P. Gonzalez

RIVKIN RADLER LLP

25 Main Street

Court Plaza North, Suite 501

Hackensack, NJ 07601-7082

Telephone: 201-287-2460

Facsimile: 201-489-0495

Gregory.Miller@rivkin.com

Timothy.Gonzalez@rivkin.com

Erik Swenson (to be admitted *pro hac vice*)

**CARLSON, CASPERS, VANDENBURGH &
LINDQUIST, P.A.**

225 South Sixth Street, Suite 4200

Minneapolis, MN 55402

Phone: (612) 436-9600

Facsimile: (612) 436-9605

eswenson@carlsoncaspers.com

*Attorneys for Plaintiffs Graco Inc. and Graco
Minnesota Inc.*

CERTIFICATION PURSUANT TO LOCAL CIVIL RULES 11.2 & 40.1

Pursuant to Local Civil Rules 11.2 and 40.1, I hereby certify that, to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

Dated: December 18, 2024

s/ Gregory D. Miller
Gregory D. Miller

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 201.1

I hereby certify that the above-captioned matter is not subject to compulsory arbitration in that plaintiff seeks, *inter alia*, declaratory relief.

Dated: December 18, 2024

s/ Gregory D. Miller
Gregory D. Miller